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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,310	10/19/2001	Donald J. Sanders	1443.023US1	9839

21186 7590 07/29/2003

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER

VANATTA, AMY B

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,310

Applicant(s)

SANDERS ET AL.

Examiner

Amy B. Vanatta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 14 and 15 recite "the pocket member " without proper antecedent basis.

Claim 16 recites "the attachment device" without proper antecedent basis.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 8-12, 15, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schlegel, Jr (US 2,517,357).

Schlegel discloses a bib which forms a "clothing shield" as claimed, comprising a body side and an outward side, a chest section (upper portion of sheet 1), and a pocket section (9). The pocket section (9) includes an opening member (19) which causes the pocket to automatically open as in claim 1. The pocket section opens when the bib is

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used, as in claim 2. The bib includes a lap section (bottom edge of bib, proximate bottom tape 3, which would lie adjacent the wearer's lap in use) as recited in claims 3 and 8. The pocket section curves away from the wearer (col. 1, lines 46-52; col. 2, lines 7-43) as in claim 4. Attachment devices (ties 7) secure the clothing shield to the wearer as in claim 5. The opening member (19) is resilient (col. 2, line 16; col. 3, lines 20) as in claim 6. The opening member (19) is disclosed as a spring wire bow having a normal arcuate curvature and being adapted to flex either way, and being capable of being flexed for use or collapsed for storage and shipping (col. 2, lines 12-15 and 31-32). Such a structure defines a live hinge opening member as in claim 8. Schlegel discloses that the spring member may be made of plastic (col. 2, line 17), and the member is seen to be "molded" into a the shape shown in Figs. 1 and 4, thus being "molded plastic" to the extent recited in claim 9. The shield is seen to be of a size and structure as recited in claim 10. Furthermore, it is noted that the amount of body area covered by the bib is dependent upon the size of the wearer. For a small wearer, the bib of Schlegel (as well as the claimed clothing shield) would cover a greater portion of the body and lap. The pocket of Schlegel is of a full width as in claim 11 (see Fig. 1). The body side comprises a liquid impermeable material (e.g. plastic sheeting as disclosed in col. 1, line 39) as in claim 12. The opening member (19) is disposed at the top of pocket member 9 as in claim 15. In use, the bib is secured to a wearer and protects the clothing during eating (col. 1, lines 1-16) as in claims 17-18.

5. Claims 1-6, 8, 10, 11, 15, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al (US 6,105,165).

Johnson et al disclose a bib which forms a "clothing shield" as claimed, comprising a body side and an outward side, a chest section, and a pocket section (2). The pocket section (2) includes an opening member (spring 1) which causes the pocket to automatically open as in claim 1. The pocket section opens when the bib is used, as in claim 2. The bib includes a lap section (bottom portion of bowl 2; see col. 2, lines 53-54) as recited in claims 3 and 8. The pocket section curves away from the wearer (Figs. 2-3) as in claim 4. Attachment devices (ties 6) secure the clothing shield to the wearer as in claim 5. The opening member (1) as in claim 6. The opening member (19) is disclosed as a spring which may be in one of two positions: an open extended position, or a collapsed configuration. Such a structure defines a live hinge opening member as in claim 8. The shield is seen to be of a size and structure that protects the chest, lap, and immediate environment as recited in claim 10 (see col. 4, lines 25-27). The pocket (2) is of a full width as in claim 11 (see Figs. 2-3). The opening member (1) is disposed at the top of pocket member as in claim 15. In use, the bib is secured to a wearer and protects the clothing during eating (col. 4, lines 25-28) as in claims 17-18.

6. Claims 1, 2, 4-7, 10-14, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Roessler (US 4,649,572).

Roessler discloses a bib which forms a "clothing shield" as claimed, comprising a body side and an outward side, a chest section, and a pocket section (20,28). The

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pocket section (28) includes an opening member (V or W shaped folds 58 as in col. 3, lines 7-17 and col. 3, line 61 thru col. 4, line 15; or, alternatively, opening member 40) which causes the pocket to automatically open as in claim 1. The pocket section opens when the bib is used, as in claim 2. The pocket section curves away from the wearer (col. 3, lines 65-67) as in claim 4. Attachment device 30 secures the clothing shield to the wearer as in claim 5, and comprises fastening tape 32 which is a type of adhesive material as in claim 16. The opening member (58 or 40) is resilient as in claim 6.

Roessler discloses that folds 58, pocket 20 and base sheet 12 may be all made of the same material (col. 3, lines 20-24). Roessler discloses that the material may comprise a nonwoven web of spunbonded filaments (col. 2, lines 55-56); thus, in this embodiment, the folds are made of this material and therefore comprise filaments, as recited in claim 7.

The shield of Roessler is seen to be of a size and structure as recited in claim 10. Furthermore, it is noted that the amount of body area covered by the bib is dependent upon the size of the wearer. For a small wearer, the bib of Roessler (as well as the claimed clothing shield) would cover a greater portion of the body and lap. The pocket Roessler is of a full width as in claim 11 (see Fig. 2). The body side comprises a liquid impermeable material and the outer side comprises an absorbent material (col. 2, lines 61-68) as in claims 12-13. The opening member (58 or 40) is disposed in the bottom of the pocket member (see Figs. 1-3) as in claim 14. In use, the bib is secured to a wearer and protects the clothing during eating as in claims 17-18.


Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy B. Vanatta whose telephone number is (703) 308-2939. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


Amy B. Vanatta
Primary Examiner
Art Unit 3765

abv
July 24, 2003